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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Eng Tat Lim

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HOWREY LLP-CA

C/O IP DOCKETING DEPARTMENT

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FALLS CHURCH, VA 22042-2924

EXAMINER

WONG, STEVEN B

ART UNIT

PAPER NUMBER

3711

MAIL DATE

DELIVERY MODE

07/01/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/568,050	Applicant(s) LIM, ENG TAT	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 13-18 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 13-18 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of leg portions extending downwardly from a lower surface of the stopper portion (claim 22) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 1-10, 13-18 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the language "relatively long prong members" and "relatively short prong members" lacks a proper antecedent basis. Further, this language is unclear as lines 3 and 4 appear to only define a single plurality of upright prong members. Thus, it is unclear which prong members (long or short) are being recited in lines 3 and 4.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-4 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chase (3,414,268). Regarding claim 1, Chase discloses a golf tee construction (note Figure 4) comprising a shaft (12) for insertion into the ground, a pivotable support portion (118) mounted atop of the shaft and a plurality of upright prong members (17) mounted on the support portion. Note Figure 5 showing a golf ball atop the prong members. Note Figures 1 and 3 showing an interconnected portion at the ends of the pivotal portion in which the lower ends of the prong members are longitudinally connected.

Regarding claims 2-4, note Figure 4 showing a pivotable connection means (21, 11C) between the shaft and the support portion.

Regarding claim 16, note Figure 1 showing the prong members equidistantly and equiangularly spaced apart. The prongs are seen as maintaining minimal contact with a golf ball.

Regarding claim 17, note Figure 3 showing the prongs with the same longitudinal length.

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Regarding claim 18, the prongs of Chase are inherently capable of being varied to suit a particular intended golf stroke.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (3,414,268) in view of Morabeto (4,645,208). Regarding claim 5, Morabeto disclose a golf tee construction comprising a shaft portion (1) and a support portion (6). The shaft and support portions are pivotably connected by a ball and socket assembly (note Figure 5). It would have been obvious to one of ordinary skill in the art to modify the golf tee of Chase so that the support portion provides the ball and the shaft provides the socket in order to provide an alternative arrangement that permits the pivotable movement.

Regarding claim 7, Morabeto provides a stopper portion on his shaft. It would have been obvious to one of ordinary skill in the art to provide the shaft of Chase with a stopper portion in order to have the user insert the tee into the ground at a particular height.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (3,414,268) in view of Liu (US 2004/0018896). Liu discloses that it is well known in the art of golf tees to form the shaft of the tee from two portions (20, 30) so that the tee may be separated to provide a short golf tee and a longer golf tee. It would have been obvious to one of ordinary skill in the art to provide a threaded connection for the shaft of the golf tee of Chase in order to permit the user to remove the pivotable section and use the tee as a short golf tee.

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9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (3,414,268). It would have been obvious to one of ordinary skill in the art to form the golf tee of Chase with three prong members as the applicant has not demonstrated the criticality for this particular number of prongs by the showing of a new and unexpected result obtained therefrom and it appears that prongs members of Chase would accomplish similar purposes.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase (3,414,268) in view of Morabeto (4,645,208) and Wang (D415,806). Wang discloses a golf tee construction comprising a stopper and a plurality of legs extending downwardly from the lower surface of the stopper. It would have been obvious to one of ordinary skill in the art to provide the golf tee stopper of Chase as modified by Morabeto with a plurality of legs extending downwardly in order to strengthen the stopper by providing reinforcements therefore.

11. Claims 1-5, 7, 13 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morabeto (4,645,208) in view of Nial et al. (1,551,207). Regarding claim 1, Morabeto discloses a golf tee construction comprising a shaft (1) adapted for insertion into a ground surface and a pivotable support portion (6) mounted atop an upper end of the shaft. The pivotable support portion is pivotable relative to the longitudinal axis of the shaft (note Figure 5). However, Morabeto lacks the teaching for the support portion to comprise a plurality of upright prong members of equal length.

Nial reveals a golf tee comprising a support portion (1) having a plurality of upright prong members (3) of equal length extending therefrom. It would have been obvious to one of ordinary skill in the art to provide the golf tee of Morabeto with the plurality of prong members as taught by Nial in order to minimize the frictional contact between the ball and the tee.

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Regarding claims 2-5, Morabeto provides an upper portion (5) and a lower portion (3) for the pivotable support portion. Morabeto teaches for the pivotable connection means to comprise a ball and socket assembly wherein the lower portion comprises a socket and the upper portion comprises a ball.

Regarding claim 7, Morabeto provides a stopper portion (2) on his shaft.

Regarding claims 13, note Figures 1 and 2 of Nial. It would have been obvious to one of ordinary skill in the art to form the golf tee of Morabeto with three prongs in order to minimize the frictional contact between the ball and the tee.

Regarding claim 16, the prong members of Nial are equidistantly and equiangularly arranged. Further, the prong members would obviously provide minimal contact with the golf ball.

Regarding claim 17, the length of the prong members of Nial are the same.

Regarding claim 18, the prong members of Nial are obviously capable of being varied to suit a particular intended golf stroke.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morabeto (4,645,208) in view of Nial et al. (1,551,207) and Liu (US 2004/0018896). Liu discloses that it is well known in the art of golf tees to form the shaft of the tee from two portions (20, 30) so that the tee may be separated to provide a short golf tee and a longer golf tee. It would have been obvious to one of ordinary skill in the art to provide a threaded connection for the shaft of the golf tee of Morabeto in order to permit the user to remove the pivotable section and use the tee as a short golf tee.

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13. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morabeto (4,645,208) in view of Nial et al. (1,551,207) and Haggarty (6,110,059). Haggarty discloses a golf tee construction comprising a plurality of prong members. Note Figures 1 and 2 showing that the prong members may comprise pointed generally conical ends or rounded ends. It would have been obvious to one of ordinary skill in the art to replace the rounded ends of Nial with pointed conical ends because Haggarty teaches that both of these structures are well known in the art of golf tees for supporting a golf ball thereon. .

14. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morabeto (4,645,208) in view of Nial (1,551,207) and Wang (D415,806). Wang discloses a golf tee construction comprising a stopper and a plurality of legs extending downwardly from the lower surface of the stopper. It would have been obvious to one of ordinary skill in the art to provide the golf tee stopper of Morabeto with a plurality of legs extending downwardly in order to strengthen the stopper by providing reinforcements therefore.

Response to Arguments

15. Applicant's arguments filed May 8, 2009 have been fully considered but they are not persuasive. Regarding the combination of Morabeto, Nial and Blair, the applicant argues that the combination does not teach an interconnected portion as recited. However, this argument is not persuasive. Insofar as claim 1 may be understood, the combination of Morabeto in view of Nial teach the claimed invention by providing a golf tee comprising a pivotable support portion and a plurality of upright prong members extending therefrom. It is noted that claim 1 defines a plurality of upright prong members in lines 3 and 4. However, claim 1 further defines these prong members as relatively long prong members having an interconnected portion or relatively

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short prong members that do not have an interconnected portion. The reference to Nial provides a golf tee comprising a support portion (1) having a plurality of upright prong members (3) of equal length extending therefrom. The prong members are seen as relatively short prong members and thus do not require the recited interconnected portion.

It is noted that due to the deletion of the language "rigid" from the claims, rejections over the reference to Chase have been reintroduced.

Allowable Subject Matter

16. Claims 8-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven Wong/
Primary Examiner, Art Unit 3711